BY ELECTRONIC FILING

Marlene H. Dortch, Secretary Federal Communications Commission 445 Twelfth Street, S.W. Washington, DC 20554

Re: Applications of Cellco Partnership d/b/a/ Verizon Wireless, SpectrumCo, LLC, and Cox TMI Wireless, LLC for Consent to Assign Wireless Licenses WT Docket No. 12-4

Dear Ms. Dortch:

Throughout this proceeding, the Applicants have claimed that their commercial agreements are not subject to Commission review because they are "separate from, and not contingent upon" their proposed spectrum assignment. Given the parties involved, the apparent subject matter of the agreements, and the fact that the commercial agreements were negotiated and finalized at the same time as the spectrum assignment agreements, this assertion has always been highly suspect at best.

Yesterday, a senior executive of one of the cable companies involved in these arrangements confirmed the obvious. In an article published this morning, David Cohen, Executive Vice President of Comcast, was asked about the relationship between the commercial agreements and the spectrum assignment. The exchange was reported as follows:

Question: Your company and Verizon Wireless are arguing before the DOJ and the FCC that the joint-marketing agreements do not need to be reviewed by federal regulators, and are separate and apart from the spectrum sale. If Verizon hadn't agreed to the joint-marketing agreements, would you still have been willing to sell the spectrum?

David Cohen: The transaction is an integrated transaction. There was never any discussion about selling the spectrum without having the commercial agreements.²

In light of this admission, Applicants' continued claims that the commercial agreements are unrelated to the spectrum transaction and that therefore the Commission "lacks jurisdiction" over

E.g., Joint Opposition to Petitions to Deny and Comments at 70 (filed Mar. 2, 2012) ("Opposition"). Unless otherwise indicated, all materials cited in this letter were filed in WT Docket No. 12-4.

² Eliza Krigman, "Comcast Executive Defends Verizon-SpectrumCo Deal," POLITICO PRO (Mar. 8, 2012) ("Politico Article") (emphasis added).

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these agreements are specious.³ The Commission has specifically rejected arguments that it has jurisdiction only over the disposition of licenses transferred as part of a larger "integrated transaction." Contrary to Applicants' assertions, moreover, the Commission routinely examines "agreements that do not include license transfers" as part of its review of the larger transaction.⁵ There is no basis for it to act any differently here.

Equally disturbing is Applicants' apparently evolving position with respect to Department of Justice jurisdiction. In their prior submissions to the Commission, they argued that the Commission need not consider the commercial agreements because "they are already the subject of review by the . . . Antitrust Division." Now, however, they appear to be saying that *even DOJ* lacks jurisdiction over those agreements.

If nothing else, such gamesmanship only underscores the importance of transparency in this proceeding. The Commission must ensure that the record includes complete and unredacted versions of the commercial agreements, and that interested parties are given sufficient opportunity to review and comment upon them.

³ *Id.*

⁴ See, e.g., Adelphia Communications Corporation, Time Warner Cable Inc. and Comcast Corporation, 21 FCC Rcd. 8203, ¶ 27 (2006) (rejecting claims that the Commission's authority to review cable merger was "tenuous" because license transfers involved constituted relatively small part of overall cable business).

Opposition at 70; see also, e.g., Information and Discovery Request for Comcast Corporation, Question 32, MB Docket No. 10-56 (May 21, 2010) (directing Comcast to "provide all agreements currently in effect and all agreements executed since January 1, 2006 between the Company and any other Person to provide Video Programming owned or otherwise controlled, operated, or managed by the Company to other MVPDs").

⁶ Opposition at 76.

Politico Article ("DOJ doesn't have any right to approve or reject any transaction there either. . . . The commercial agreements don't fall under the Hart-Scott-Rodino. This is why we have already begun implementing the agreements.").

Respectfully submitted,

/s/	/s/	
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Rural Telecommunications Group, Inc.	Media Access Project	
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